

CITY OF SAN JOSÉ, CALIFORNIA
Department of Planning, Building and Code Enforcement
801 North First Street, Room 400
San José, California 95110-1795

Hearing Date/Agenda Number
P.C. 07/27/05 Item: 3c

File Number
CP05-021

Application Type
Conditional Use Permit

Council District
9

Planning Area
Willow Glen

Assessor's Parcel Number(s)
451-07-003

STAFF REPORT

PROJECT DESCRIPTION

Completed by: Suparna Saha

Location: Eastside of Almaden Expressway approximately 200 feet southerly of Foxworthy Avenue.

Gross Acreage: 1.87 Net Acreage: 1.87 Net Density: n/a

Existing Zoning: CP – Commercial Pedestrian Existing Use: Second hand retail store and parking lot (Goodwill)

Proposed Zoning: No change Proposed Use: Conditional Use Permit to allow car sales yard.

GENERAL PLAN

Completed by: SS

Land Use/Transportation Diagram Designation
General Commercial

Project Conformance:
☒ Yes ☐ No
☐ See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: SS

North: Commercial CP Commercial Pedestrian Zoning District

East: Guadalupe River, Residential A- Agriculture

South: Office CP – Pedestrian Commercial

West: Church Parking Lot, Residential A (PD) Planned Development Zoning Districts (Public /Quasi-Public)

ENVIRONMENTAL STATUS

Completed by: SS

☐ Environmental Impact Report adopted
☐ Negative Declaration circulated on
☐ Negative Declaration adopted on

☒ Exempt
☐ Environmental Review Incomplete

FILE HISTORY

Completed by: SS

Annexation Title: Curtner No. 2

Date: September 1, 1955

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

☒ Approval
☐ Approval with Conditions
☐ Denial
☐ Uphold Director's Decision

Date: _____

Approved by: _____
☒ Action
☐ Recommendation

CONTACT

Greg Bunton (Architect)
13370 Skyline Blvd.
Woodside CA 94062

APPLICANT/OWNER

Goodwill of Silicon Valley
Attn: Chris King
1080 North 7th, Street
San Jose, CA 95112

PUBLIC AGENCY COMMENTS RECEIVED

Memorandum Attached

Completed by: SS

Fire Department

Memorandum Attached

Other Departments and Agencies

None.

GENERAL CORRESPONDENCE

None.

ANALYSIS AND RECOMMENDATIONS**BACKGROUND**

The applicant, Goodwill of Santa Clara County, is requesting a Conditional Use Permit to allow automobile sales within the existing parking lot. The subject property is located within the CP- Commercial Pedestrian Zoning District. A Conditional Use Permit is required for the sale of passenger vehicles and pickup trucks in the CP- Commercial Pedestrian Zoning District. Auction is not an allowed use in any commercial Zoning District and auctioning of donated vehicles is prohibited.

A Conditional Use Permit (File No. CP95-03-014) was previously approved on April 12, 1995 to allow the existing Goodwill store. Surrounding land uses include an office building (Credit Union) and a service station to the north, the Guadalupe River across Old Almaden Road to the east, offices buildings to the south, and a church across Almaden Expressway to the west. The lot shares access with the neighboring commercial parcels to the north. The adjacent commercial tenant space is on a separate lot and currently vacant. There is a pending Conditional Use Permit (File No. CP05-025) to allow for the rental of vehicles from that location scheduled to be heard by the Planning Commission on July 27, 2005.

Project Description

The proposed 10, 292 square foot automobile sales yard is proposed to be located within a fenced area in the existing Goodwill store parking lot. The area will utilize 28 of the existing 117 parking stalls and is proposed to be enclosed with a 6-foot tall open metal fence. There will be three 14-foot wide gates for access to the sales yard. No additional structures are proposed. The sale of vehicles will be limited to those that are donated to the Goodwill

There is no proposal to remove any existing landscaping with this Conditional Use Permit. There will not be any net loss of required parking stalls for the existing retail use, as a result of the proposed project.

ENVIRONMENTAL REVIEW

Under the provisions of Section 15301 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. The project involves negligible or no expansion of use beyond that current use in that a portion of the site is proposed for a minor alteration to use for used automobile sales in that the project

consists of a minor alteration to an existing facility and expansion of use.

GENERAL PLAN CONFORMANCE

The subject site is designated General Commercial on the San Jose 2020 General Plan Land Use/Transportation Diagram. Retail establishments, such as secondhand shops and donated car sales yard, have been determined to conform to that designation.

ANALYSIS

The primary issues analyzed for the proposed project are conformance with the following: 1) land use compatibility and 2) parking analysis.

Land Use

The proposed automobile sales lot is compatible with the surrounding land uses. The project site is adjacent to Almaden Expressway and is surrounded by commercial/office uses. There is adequate parking on the site to avoid the need for customers to park on neighboring parcels or streets. There are no sensitive uses such as residences immediately adjacent to the subject site that would be adversely affected by the proposed use.

The project site has parking and access area easements with the adjacent commercial properties to the north (Credit Union) and south (future Hertz Rental Car). Lighting for the auto sales yard lot will not exceed 16 feet in height, and will be Low-Pressure Sodium fixtures designed, controlled and maintained so that no light source is visible from outside of the property.

Parking

The 117 parking spaces currently on the site are sufficient to allow a portion of the parking lot to be used for automobile sales. The proposed project will utilize 28 parking stalls and the remaining 89 stalls are sufficient to meet the code requirements for customer parking for the Goodwill Store and the proposed auto sales lot.

Each retail parcel will retain sufficient parking on-site to meet the Zoning Code requirements. The new auto sales yard will be integrated into the existing parking lot and will not hinder on-site circulation.

PUBLIC OUTREACH

Notices of the public hearing were distributed to the owners and tenants of all properties located within 500 feet of the project site. Staff has been available to answer questions on the project from the public.

RECOMMENDATION

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its Resolution:

Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of General Commercial on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The project site is located in the CP Commercial Pedestrian Zoning District.
3. Under the provisions of Section 15301 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. The project will not have a significant adverse effect on the environment.
4. The project will allow an auto-sales yard located within an existing parking lot. Auto sales yards require a Conditional Use Permit in the CP Commercial Pedestrian Zoning District.
5. The project site is located immediately adjacent to a major street, Almaden Expressway.
6. There are currently 117 parking spaces on the subject site. All one hundred and seventeen parking spaces are required to serve the existing and proposed uses, including auto sales.
7. The new donated auto sales yard will encompass twenty-eight (28) parking spaces fenced –off by a 6-foot tall wrought iron fence.
8. Surrounding land uses include commercial to the north, the Guadalupe River to the east, office uses to the south and a parking lot to the west.
9. The auto-sales yard will sell vehicles obtained through a charitable contribution program but no auction of vehicles is permitted in the CP Commercial Pedestrian Zoning District.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project is consistent with the adopted San José 2020 General Plan Land Use/Transportation Diagram designation and relevant urban design policies.
2. The proposed project complies with all applicable provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act.
4. There is adequate on-site parking to serve existing and proposed uses.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not:
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
 - b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Payment of Recording Fees.** Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara should be submitted to the Director of Planning within 30 days of approval of this permit, but must be prior to issuance of a Building Permit. Submittal of the recording fee less than a week prior to issuance of a Building Permit will delay the Building Permit issuance for up to one week to allow for recordation of the permit with the County Recorder. This permit shall be effective at such time when recordation with the County of Santa Clara occurs.
2. **Acceptance of Permit.** Per Section 20.100.290(B) should the applicant fail to file a timely and

valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant

- a. Acceptance of the Permit by the applicant; and
 - b. Agreement by applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit
3. **Additional Permits.** Obtain all applicable permits required per State requirements and/or the San Jose Municipal Code including but not limited to required permits from the Department of Motor Vehicles and Police Department.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Conformance with Plans.** Construction and development shall conform to approved development plans entitled, "The Goodwill Store," dated June 6, 2005 and last revised on June 28, 2005, on file with the Department of City Planning and Building and to the San José Building Code (San José Municipal Code, Title 24).
2. **Vehicle Sales.** The sales of vehicles shall be limited to those that are donated to the Goodwill for charitable purposes.
3. **Nuisance.** This use shall be operated in a manner, which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
4. **Construction Hours.** Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.
5. **Auction.** Auction of donated vehicles is prohibited.
6. **Lighting.** On-site lighting shall use Low-Pressure Sodium fixtures and be designed, no more than 16 feet in height, controlled and maintained so that no light source is visible from outside of the property.
7. **Landscaping/Tree Removals.** This project does not allow removal of any existing landscaping.
8. **Fire Safety.** The applicant shall meet all requirements of the Fire Department at the Building Permit stage.
9. **Anti Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. In conjunction with other tenant(s) in the subject commercial building, the subject applicant shall

ensure that all public and private areas are kept free of litter, trash, cigarette butts and garbage.

10. **Donated Vehicle Numbers and Location.** The applicant shall be limited to a maximum of twenty-eight (28) donated cars parked at the site at any time. All donated vehicles associated with the subject operation shall be parked only in those areas indicated on the approved plan set. Donated vehicles shall not be parked in any other parking area of the subject site's parking lot.
11. **Security.** The gates to the donated auto sales parking area shall be locked during non-operational hours.
12. **Outside Storage.** No outside storage is permitted for the project except in areas designated on the approved plan set.
13. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning.
14. **Repair and Cleaning of Vehicles Prohibited.** No repair or servicing of vehicles is allowed on the site. Cleaning of the vehicles with power equipment such as vacuum cleaners, and washing of vehicles is also prohibited.
15. **Hours of Operation.** This facility shall be limited to operation between the hours of 6 a.m. to 12 midnight, unless the City approves a Conditional Use Permit for other hours of operation.
16. **Colors and Materials.** All structure colors and materials are to be those specified on the approved plan set.
17. **Public Works Clearance.** A development Clearance shall be obtained from the Public Works Department, Room 308, (408) 277-5161, and is subject to the following requirements (3-04514) to the satisfaction of the Director of Public Works.
18. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief of Building Official:
 - a. **Construction Plans.** This permit file number, CP 05-021, shall be printed on all construction plans submitted to the Building Division.
 - b. **Construction Conformance.** A project construction conformance review by Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submitted to the Building Division. Prior to final inspection approval by the Building Department, Developer shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms to all applicable requirements of the subject Permit, including the plan sets. To prevent delays in the issuance of Building Permits, please notify Planning Division staff at least week prior to the final Building Division inspection date.

CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.

Attachments

cc: Goodwill of Silicon Valley, Attn: Chris King, 1080 N. 7th Street, San Jose, CA. 95112.
Greg Bunton, 13370 Skyline Blvd. Woodside, CA. 94062.